



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917

<http://www.epa.gov/region08>

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Ref: 8ENF-L

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Hecla Limited
c/o Mr. Philip Baker, President and CEO
6500 N. Mineral Drive, Suite 200
Coeur d'Alene, ID 83815-9408

CoCa Mines, Inc.
c/o Mr. Ronald W. Clayton, President
6500 N. Mineral Drive, Suite 200
Coeur d'Alene, ID 83815-9408

Re: General Notice of Superfund Liability and Demand for Reimbursement of Costs Expended at the Nelson Tunnel/Commodore Waste Rock Pile Superfund Site in Mineral County, Colorado

Dear Mr. Baker and Mr. Clayton:

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the federal "Superfund" law, the U.S. Environmental Protection Agency (EPA) is responsible for responding to the release or threat of release of hazardous substances, pollutants or contaminants into the environment and for cleaning up or otherwise addressing any contamination that has already occurred. The EPA has documented that such releases have occurred at the Nelson Tunnel/Commodore Waste Rock Pile Site (Site) located in Mineral County, Colorado. The EPA has spent public funds to investigate and control releases of hazardous substances or potential releases of hazardous substances at the Site. Based on information presently available, the EPA has determined that Hecla Limited and CoCa Mines, Inc. may be responsible under CERCLA for cleanup of the Site.

Explanation of Potential Liability

Under CERCLA, specifically sections 106(a) and 107(a), potentially responsible parties (PRPs) may be required to perform cleanup actions to protect the public health, welfare, or the environment. PRPs may also be responsible for costs incurred by the EPA in cleaning up a site, unless the PRP can show divisibility or any of the limited statutory defenses. PRPs include current and former owners and operators of a site, as well as persons who arranged for treatment and/or disposal of any hazardous

substances found at the site, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

Based on its investigation, the EPA believes that Hecla Limited may be liable under section 107(a) of CERCLA, as the successor to CoCa Mines, Inc., an owner/operator at the time hazardous substances were disposed of at the Site. In addition, the EPA believes that CoCa Mines, Inc. may be liable under section 107(a) of CERCLA as an owner/operator at the time hazardous substances were disposed of at the Site

To date, the EPA has taken several response actions at the Site under the authority of the Superfund Program. The Site was listed on the National Priorities List on September 3, 2008. The EPA conducted a time-critical removal action to address actual or threatened releases of hazardous substances from the Commodore Waste Rock Pile (CWRP). The removal action involved an engineered reconstruction, to limit the contaminated surface and subsurface drainage from CWRP into West Willow Creek, Willow Creek and the Rio Grande River. This engineered containment of Willow Creek also serves to protect the CWRP from further erosion and migration of contaminated waste rock into the creek and downstream to the Rio Grande River. In particular, the removal action included temporarily diverting creek flows around the construction area in the creek channel; clearing out the damaged old wooden creek diversion flume, old metal pipe, metal and other debris from the channel; lining the upper section of the channel with a geo-membrane to prevent infiltration of creek water into the top of the CWRP; re-grading the waste rock pile slope to achieve a stable 2:1 slope; re-grading the lower channel along the toe of the pile to stabilize the slope; constructing grouted rip-rap drop structures in the channel for dissipation of energy in the flowing water, and lining the lower section of the channel with a grouted rock to stabilize the channel around the CWRP.

The EPA is currently undergoing a remedial investigation/feasibility study (RI/FS) for the Nelson Tunnel portion of the Site. Once the RI/FS is complete, the EPA will begin remedial design and remedial action (RD/RA) on the Nelson Tunnel portion of the Site.

Demand for Reimbursement of Costs

In accordance with section 104 of CERCLA, EPA has already taken certain response actions, which are listed above, and incurred certain costs in response to conditions at the CWRP. The EPA is seeking to recover, from Hecla Limited and CoCa Mines, Inc. and other PRPs at the Site, its response costs and all the interest authorized to be recovered under section 107(a) of CERCLA. The approximate total response costs identified through December 31, 2012 for the CWRP removal action are \$5,920,660.49. Under section 107(a) of CERCLA, the EPA hereby makes a demand for payment from you and other PRPs for the above amount plus all interest authorized to be recovered under Section 107(a). A summary of these costs is enclosed as Attachment A.

While this letter demands that Hecla Limited and CoCa Mines, Inc. reimburse the EPA for all funds spent at the Site, the EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a site may be substantially limited. If you believe, and can document, that you fall within this category, please contact Sharon Abendschan at 303-312-6957 for information on "Ability to Pay Settlements." In response, you will receive a package of information about such

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settlements and a form to fill out with information about your finances, and you will be asked to submit financial records including business federal tax returns. If the EPA concludes that Hecla Limited and/or CoCa Mines, Inc. has a legitimate inability to pay the full amount, the EPA may offer a schedule for payment over time or a reduction in the total amount demanded from you.

Some or all of the costs associated with this notice may be covered by current or past insurance policies issued to Hecla Limited and CoCa Mines, Inc. Most insurance policies will require that you timely notify your carrier(s) of a claim against you. To evaluate whether you should notify your insurance carrier(s) of this demand, you may wish to review current and past policies, beginning with the date of Hecla Limited and CoCa Mines, Inc. first contact with the Site, up to the present.

Please send a written response to this cost recovery demand, within thirty (30) days, to:

Laurianne Jackson, Enforcement Attorney
U.S. Environmental Protection Agency
1595 Wynkoop Street, ENF-L
Denver, Colorado 80202

If a response from you is not received within thirty (30) days, the EPA will assume that you have declined to reimburse the Superfund for the Site expenditures, and pursuant to CERCLA, EPA may pursue civil litigation.

Please note that, because the EPA has a potential claim against you, you must include the EPA as a creditor if you file for bankruptcy. The EPA reserves the right to file a proof of claim or an application for reimbursement of administrative expenses.

Information to Assist You

The EPA would like to encourage communication among you, other PRPs, and the EPA regarding the Site. To assist you in this effort, enclosed is the list of names and addresses of the PRPs to whom this letter has been sent is enclosed as Attachment B.

The EPA has established an Administrative Record that contains documents that serve as the basis for the EPA's selection of cleanup actions for the Site. The Administrative Record is located at the EPA Region 8 Superfund Records Center, 1595 Wynkoop Street, Denver, Colorado 80202.

Please give these matters your immediate attention. If you have any questions regarding this letter, please contact Laurianne Jackson, Site Attorney, at (303) 312-6950.

Sincerely,

Kelcey Land, Director
RCRA/CERCLA Technical Enforcement Program

Andrea Madigan, Supervisory Attorney
CERCLA Legal Enforcement Program

Enclosures

cc: Laurianne Jackson, 8ENF-L
Sharon Abendschan, 8ENF-RC
Jeral Ellington, DOJ
Jason King, CO Attorney General's Office
Elizabeth Tempkin, Temkin Wielga & Hardt

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